

FILED

AUG 30 2017

Clerk, U S District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

CHRIS STEVEN FINK,

Plaintiff,

vs.

MONTANA STATE PRISON,
YAVONIVICH-UNIT MANAGER,
WILLIS-GUARD,

Defendants.

CV 16-00081-H-DLC-JTJ

ORDER

United States Magistrate Judge John T. Johnston entered Findings and Recommendations in this case on July 28, 2017, recommending that Plaintiff Chris Fink's ("Fink") complaint be dismissed. Fink did not object to the Findings and Recommendations, and so has waived the right to de novo review thereof. 28 U.S.C. § 636(b)(1)(C). This Court reviews for clear error those findings and recommendations to which no party objects. *See McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981); *Thomas v. Arn*, 474 U.S. 140, 149 (1985). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000) (citations omitted).

Having reviewed the Findings and Recommendations, the Court finds no clear error in Judge Johnston's conclusion that Fink has failed to state a claim upon which relief may be granted.

Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 8) is ADOPTED IN FULL. This case is DISMISSED WITH PREJUDICE for failure to state a claim.

IT IS FURTHER ORDERED that the Clerk of Court shall CLOSE this matter and enter judgment in favor of Defendants pursuant to Rule 58 of the Federal Rules of Civil Procedure.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

IT IS FURTHER ORDERED that the Clerk of Court is directed to have the docket reflect that this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g) because Fink failed to state a claim upon which relief may be granted.

DATED this 30th day of August, 2017.



Dana L. Christensen, Chief Judge
United States District Court